

REMARKS

Claims 1-13 have been cancelled from the application. Claims 14-19 are pending in the application. Claims 14-19 have been rejected.

Election/Restriction Under 35 U.S.C. 121

Applicant affirms the election without traverse to prosecute the invention of Group II, claims 14-19, from the restriction requirement. To expedite prosecution, claims 1-13 have been cancelled.

Reconsideration and allowance are respectfully requested in view of the foregoing amendments and the following remarks.

In the Official Action, the Examiner rejected claims 14-19 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,998,921 to Nakaya et al. (hereinafter referred to as Nakaya). Applicant respectfully traverses this rejection for the reasons discussed below.

MPEP § 2131 (in part):

To anticipate a claim, each and every limitation must be found in a reference. In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claims" and "[t]he elements must be arranged as required by the claim." *Richardson v. Suzuki Motor Co.*, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 USPQ 2d 1566 (Fed. Cir. 1990);

MPEP 2111.01 (in part):

"PLAIN MEANING" REFERS TO THE MEANING GIVEN TO THE TERM BY THOSE OF ORDINARY SKILL IN THE ART

When not defined by applicant in the specification, the words of a claim must be given their plain meaning. In other words, they must be read as they would be interpreted by those of ordinary skill in the art. >*Rexnord Corp. v. Laitram Corp.*, 274 F.3d 1336, 1342, 60 USPQ2d 1851, 1854 (Fed. Cir. 2001)(explaining the court's analytical process for determining the meaning of disputed claim terms); *Toro Co. v. White Consol. Indus., Inc.*, 199 F.3d 1295, 1299, 53 USPQ2d 1065, 1067 (Fed. Cir. 1999)("[W]ords in patent claims are given their ordinary meaning in the usage of the field of the invention, unless the text of the patent makes clear that a word was used with a special meaning.").

MPEP 2173.05(a) (in part):**TERMS USED CONTRARY TO THEIR ORDINARY MEANING MUST BE CLEARLY REDEFINED IN THE WRITTEN DESCRIPTION**

Consistent with the well-established axiom in patent law that a patentee or applicant is free to be his or her own lexicographer, a patentee or applicant may use terms in a manner contrary to or inconsistent with one or more of their ordinary meanings if the written description clearly redefines the terms. See, e.g., *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999) ("While we have held many times that a patentee can act as his own lexicographer to specifically define terms of a claim contrary to their ordinary meaning," in such a situation the written description must clearly redefine a claim term "so as to put a reasonable competitor or one reasonably skilled in the art on notice that the patentee intended to so redefine that claim term."

Independent claim 14 is directed to a linear tube illumination source reciting the following:

a first end and a second end, the tube having an inner surface having a luminescent substance distributed thereon, a longitudinal distribution density of the luminescent substance having a minimum at a first point of the inner surface, the tube having a luminescent substance density greater than the minimum at each of a second and third point of the inner surface, the first point longitudinally located between the second and third points.

In rejecting claim 1, the Examiner notes that Nakaya discloses an illumination source comprising a linear tube having a luminescent substance distributed along an inner surface and including a part of the inner surface where no luminescent substance is distributed. Particularly, a fluorescent layer formed on an inner surface of a tubular glass bulb is eliminated at a gap formed by a restricted part of the inner surface (FIGURE 7, elements 2, 2c, 5 and 10; Column 7, Lines 26-30). The density of any luminescent substance is zero in the absence of the substance. Consequently, any amount of the luminescent substance results in a greater substance density than a substance density of zero. However, the lack of the substance at the gap can not be accurately described as a distribution of the substance in accordance with the plain meaning of the term "distribution." To expedite examination of the subject application, various definitions of "distribution" and derivations thereof are provided:

From Merriam-Webster Online:

*distribution: the act or process of distributing;
something distributed;
distribute: to spread out so as to cover something;
to divide among several or many : APPORTION*
From The American Heritage Dictionary (3rd edition):
*distribute: To divide and give out in portions;
To spread or diffuse over an area.*

Clearly, a substance in absence can not be distributed, spread out, divided, diffused or apportioned and, accordingly, the lack of any luminescent layer at the gap described by Nakaya precludes the gap from comprising a distribution of the luminescent substance. Applicant respectfully submits that the characterization of an absence of a fluorescent layer as a distribution of the fluorescent layer is contrary to the plain meaning of the term "distribution". The written description of the invention provides no redefinition of distribution. Nakaya fails to describe or suggest an illumination tube having *a distribution of a luminescent substance* with a minimum substance density at a point and a greater substance density at points on both sides of the minimum density point.

The present invention provides an illumination source having a non-linear luminescent substance distribution along a length of the illumination source. Particularly, the distribution of a luminescent substance along the length of the illumination source is made such that a point between opposing ends of the illumination source has a minimum luminescent substance density and respective points between the minimum density point and opposing ends have a greater luminescent substance density than that of the minimum density point. Various exemplary profiles of the distribution of the luminescent substance are provided and each includes a greater luminescent substance density on either side of a point or area having a minimum luminescent substance density (e.g., FIGUREs 6B-6D; Page 2, Lines 10-16; Page 7, Lines 9-32; Page 8, Lines 5-7; and Page 9, Lines 4-6 and 21-24.) For at least these reasons, Nakaya fails to anticipate claim 14 and Applicant respectfully requests withdrawal of the rejection of claim 14 and the claims dependent therefrom.

Claims 16 and 19 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Nakaya in view of U.S. Patent 5,856,726 to Evans et al. (hereinafter referred to as Evans). Evans generally describes an electric discharge lamp with a threaded electrode. Evans is wholly silent with regard to any fluorescent substance distribution of the lamp. Accordingly, Evans adds nothing to the deficiencies of Nakaya, and Applicant requests withdrawal of the rejection thereof.

Should the Examiner have any further questions or comments facilitating allowance, the Examiner is invited to contact Applicant's representative indicated below. In view of the above, it is believed that this application is in condition for allowance, and such a Notice is respectfully requested.

Respectfully submitted,



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